



Reply to:
ALAN J. KLUGER
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June 18, 2012

VIA EMAIL and U.S. MAIL

Robert Kain, Esq.
Kain & Associates, Attorneys at Law, P.A.
900 Southeast Third Avenue, Suite 205
Fort Lauderdale, Florida 33316-1153

Marc Randazza, Esq.
Randazza Legal Group
6525 West Warm Springs Road, Suite 100
Las Vegas, Nevada 89118-4681

Re: R.K. /FL Management, Inc., et al. v. Kain & Associates, et al.

Messrs. Kain and Randazza:

Enclosed is a draft Complaint we have prepared against you and your respective law firms arising out of your violations of the Restatement (Second) of Torts s. 876. As we have alleged in the Complaint, you and your firms have acted in concert with Irina Chevaldina, substantially assisted or encouraged her in unlawful activities or have given substantial assistance to her in accomplishing a tortious result, and your own conduct, separately considered, constitutes a breach of duty. I believe the allegations of the Complaint are self-explanatory.

Frankly, we are surprised by your conduct, which I believe exceeds the role of legal counsel, and constitutes independent tortious misconduct. We are further puzzled by your behavior considering some of the articles Mr. Randazza has published against the type of cyber-bullying Ms. Chevaldina (with your assistance) has been perpetrating upon our clients. Certainly, Ms. Chevaldina's actions are far more egregious than that of Crystal Cox ("Judge rules, again, that blogger, Crystal Cox is not a journalist. You know why? Because she ISN'T a journalist," written by Marc Randazza and published on his blog, *The Legal Satyricon*). Like Ms. Cox, Judge Manno-Schurr previously found that Ms. Chevaldina "ISN'T a journalist." Like Ms. Cox, Ms. Chevaldina has registered various websites/blogs using my clients' names without their consent ("you know, just like a 'journalist' would, right?"). Just like Ms. Cox, Ms. Chevaldina has pursued my clients' families. Ms. Chevaldina is the same as the cyber-stalkers described on *The Legal Satyricon* who "like Cox try to wrap themselves in the cloak of journalistic privilege." Like Cox, "[h]ere a bad apple must be kept out of the cart, before it spoils the entire crop."

Robert Kain, Esq.
Marc Randazza, Esq.
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You have substantially assisted and encouraged Ms. Chevalidna to “spoil the entire crop” and worse—destroy the business my clients have built over the course of their lives. Like your three year old daughter, Mr. Katz’s granddaughter “doesn’t have the luxury” to withstand the attacks on her family, which she found (quite easily given the search engine optimization created by your clients) on Ms. Chevaldina’s blogs when doing a school report on her beloved grandfather. My clients also don’t “have the luxury” of watching their business destroyed by your cyber-bully client, whom you substantially assist and encourage to publish her vile blogs at a whirlwind pace.

Given the foregoing, is there a reason we should consider *not* filing the attached Complaint? Are there facts of which I am not aware? Assuming your answers are “no,” please inform me whether you will waive the requirement of formal service of process and agree to accept service of process and the Complaint via email or U.S. Mail.

Thank you,

**KLUGER, KAPLAN, SILVERMAN,
KATZEN & LEVINE, P.L.**

By: Alan Kluger / mrm
Alan J. Kluger
(signed in the absence of author to avoid delay)

AJK/mrm
Enclosure

DRAFT

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

GENERAL JURISDICTION
CASE NO.: 11-17842 CA (32)

R.K./FL MANAGEMENT, INC., a Florida Profit Corporation, R.K. ASSOCIATES VII, INC., a Florida Profit Corporation, 17070 COLLINS AVENUE SHOPPING CENTER, LTD., a Florida Limited Partnership, RAANAN KATZ, an individual, and DANIEL KATZ, an individual,

Plaintiffs,

v.

KAIN & ASSOCIATES, ATTORNEYS AT LAW, P.A. a Florida Professional Association, ROBERT C. KAIN, JR., an individual, MARC J. RANDAZZA, P.A., a Florida Professional Association d/b/a/ RANDAZZA LEGAL GROUP and MARC J. RANDAZZA, an individual,

Defendants.

COMPLAINT

Plaintiffs, R.K./FL MANAGEMENT, INC., a Florida corporation, R.K. ASSOCIATES VII, INC., a Florida corporation, 17070 COLLINS AVENUE SHOPPING CENTER, LTD., a Florida limited partnership, RAANAN KATZ, an individual, and DANIEL KATZ, an individual (collectively, “**Plaintiffs**”), through their undersigned counsel hereby file this Complaint against Defendants, KAIN & ASSOCIATES, ATTORNEYS AT LAW, P.A., ROBERT C. KAIN, JR., MARC J. RANDAZZA, P.A. d/b/a RANDAZZA LEGAL GROUP and MARC J. RANDAZZA (collectively, “**Defendants**”), and allege as follows:

NATURE OF THE ACTION

1. This is an action for damages in excess of \$15,000.00, exclusive of interest, costs and attorneys' fees against Defendants for conspiring with a formerly anonymous internet blogger to defame Plaintiffs and tortuously interfere with their advantageous business and/or contractual relationships, and is within the subject matter jurisdiction of this Court.

THE PARTIES, PERSONAL JURISDICTION AND VENUE

2. Plaintiff, R.K./FL Management, Inc., is a Florida corporation with its principal place of business in Miami-Dade County, Florida.

3. Plaintiff, R.K. Associates VII, Inc. d/b/a R.K. Associates is a Florida corporation with its principal place of business in Miami-Dade County, Florida.

4. Plaintiff, 17070 Collins Avenue Shopping Center, Ltd. d/b/a R.K. Associates, is a Florida limited partnership with its principal place of business in Miami-Dade County, Florida.

5. Plaintiff, Raanan Katz, is a Director and President of R.K./FL Management, Inc., Director and President of R.K. Associates VII, Inc. and the Registered Agent for 17070 Collins Avenue Shopping Center, Ltd.

6. Plaintiff, Daniel Katz, is a Director and Vice President of R.K./FL Management, Inc. and a Director and Vice President of R.K. Associates VII, Inc.

7. Defendant, Kain & Associates, Attorneys at Law, P.A. ("**Kain and Associates**"), is a professional association organized and existing under the laws of the state of Florida, with offices in Broward County, Florida and is subject to the personal jurisdiction of this Court.

8. Defendant, Robert Kain ("**Kain**"), is an individual, who, upon information and belief, resides in Broward County, Florida, is over 18 years of age, is otherwise *sui juris*, and is subject to the personal jurisdiction of this Court. Kain is a principal of Kain & Associates.

9. Defendant, Marc J. Randazza, P.A. (“**Randazza Legal Group**”), is a professional association doing business under the fictitious name of Randazza Legal Group, is organized and existing under the laws of the state of Florida, with offices in Miami-Dade County, Florida and is subject to the personal jurisdiction of this Court.

10. Defendant, Marc J. Randazza (“**Randazza**”), is an individual, who is over 18 years of age, is otherwise *sui juris*, and upon information and belief, resides in Las Vegas, Nevada. Randazza is a principal of Randazza Legal Group. This Court has personal jurisdiction over Randazza pursuant to Fla. Stat. § 48.193 because Defendant committed the acts alleged herein within the State of Florida and/or is engaged in substantial and not isolated activity within this State, whether such activity is wholly interstate, intrastate, or otherwise, and is therefore subject to the jurisdiction of the courts of this state, whether or not the claim arises from that activity, and because Defendant has submitted itself to the jurisdiction of this Court and is subject to the personal jurisdiction of this Court.

11. Venue is proper in Miami-Dade County because Defendants’ tortious acts as described herein occurred in Miami-Dade County, because the tortious acts described herein accrued in Miami-Dade County, and because at least one of the Defendants resides in Miami-Dade County Florida.

OTHER RELEVANT ENTITIES AND PEOPLE

12. Irina Chevaldina (“**Chevaldina**”) is a former tenant of one of Plaintiffs’ affiliates, and has been publishing false and defamatory materials about Plaintiffs on the internet since May 2011 on various blog sites, including but not limited to blogger.com, blogspot and blog.uk.com.

13. Until, recently, Chevaldina was publishing her false and defamatory statements anonymously, but in early 2012 she was ordered by the Honorable Valerie Manno-Schurr to

reveal her identity. Judge Manno-Schurr's Order was affirmed by the Third District Court of Appeal (the "3rd DCA") when the 3rd DCA denied Chevaldina's Emergency Petition for Writ of Certiorari.

14. Chevaldina is not a journalist. Instead, she is a person or persons with a personal vendetta against Plaintiffs, and has been continuously publishing false, vile and hateful defamatory statements, about them and their businesses on the internet. Chevaldina's statements are not presented as opinions. To the contrary, and despite the fact they are false, she signs off each blog posting as "Always True" or "alwaystrue."

15. Blogger.com and Blogspot are web publishing services dedicated to publishing blogs and are owned by Google. Although Chevaldina publishes defamatory blogs on Blogger.com, she has never been the owner of the blogger.com or blogspot internet sites.

16. Blog.co.uk is a web publishing service dedicated to publishing blogs and is owned by mokono GmbH. Until recently, Chevaldina published defamatory blogs on Blog.co.uk. In June, 2012 was mokono GmbH or its agent shut down Blog.co.uk. Chevaldina has never been the owner of the blog.co.uk internet site.

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

17. RK Centers (formerly known as R.K. Associates) is a privately held, family-owned real estate development company, which currently owns over 6,000,000 square feet of commercial space. RK Centers handles acquisitions, development, and management of "open air" regional and community shopping centers in New England and South Florida.

18. R.K./FL Management, Inc., R.K. Associates VII, Inc., and 17070 Collins Avenue Shopping Center, Ltd. are affiliates of, and are identified with, RK Centers.

19. Raanan Katz is the founder and a principal of RK Centers.

20. Daniel Katz is Raanan Katz's son, and is the Vice President and principal of RK Centers.

21. Since May, 2011, Chevaldina repeatedly published defamatory blogs on the websites located at:

- a. <http://www.rkassociatesusa.blogspot.com/>, which is owned by blogger.com which is owned by Google; and
- b. <http://www.blog.co.uk/user/alwaytrue/>, which is owned by blog.co.uk.

22. Chevaldina has also been publishing defamatory blogs on the websites located at:

- a. http://www.rkassociates-sunnyisles.blogspot.com;
- b. <http://www.slideshare.net/rkcenters>;
- c. <http://www.docstoc.com/profile/raanankatzfiles>; and
- d. <http://www.scribd.com/rkassociatesusa>

23. Chevaldina does not own any of the foregoing websites.

24. The false, libelous and untrue statements and depictions found in the blog titles and articles are legion. The articles are all infested with defamatory misinformation, wherein Chevaldina distorts the truth, mischaracterizes court cases and pleadings, incorporates statements taken out of context, and fabricates lies calculated to falsely and maliciously attack Plaintiffs.

25. Each of Chevaldina's blogs are defamatory as a whole. The defamatory blogs are attached hereto as **Composite Exhibit "A"** and are incorporated herein by this reference. The defamatory statements are highlighted for the Court's reference.

26. These defamatory blogs include, *inter alia*, the following articles:

- a. **"RK Associates and Commercial Lease Fraud" [May 16, 2011]:** Wherein Chevaldina includes a definition of "commercial lease fraud" and represents Plaintiffs as perpetrating fraudulent or unlawful activities.

- b. **“Raanan Katz Wants Your Money No Matter What” [May 18, 2011]:** In this blog, for example, Chevaldina states: “Bottom line, when you sign a lease with RK Associates, Raanan Katz goes after YOUR money no matter what.” Again, Chevaldina is representing that Plaintiffs are involved in fraudulent or unlawful activities.
- c. **“RK Associates’ Attempt to Rip-off Florida Doctor Failed” [May 20, 2011]:** In addition to the obviously defamatory title, Chevaldina states, *inter alia*, “Do you believe RK Associates and Raa[n]an Katz comply with this court order? RK Associates and Raanan Katz continue to include this “GOTCHA” clause in the Leases and demand money under expired leases.” Therefore, Chevaldina is again representing that Plaintiffs are perpetrating fraudulent or unlawful activities.
- d. **“Why Raanan Katz Can Get Away With Breaking The Law” [May 28, 2011]:** In addition to the obviously defamatory title, Chevaldina states, *inter alia*, “Do you believe that RK Associates and Raanan Katz would be ever investigated on suspicion of economical crimes if they had paid to Miami Dade Police Chief? . . . In other words, he was being paid by the very same developers (including RK Asso[c]iates and Raanan Katz) and builders his police unit might be called upon to investigate. *Instead it was the developers who found themselves with a valuable friend in the police department.*” Again, Chevaldina is representing that Plaintiffs are perpetrating fraudulent or unlawful activities.
- e. **“RK Associates Scam To Make Extra Money Leasing Commercial Property” [May 30, 2011]:** In addition to the again obviously defamatory title, Chevaldina states, *inter alia*: “Has Raanan Katz made his fortune the legal way?” Again, Chevaldina is representing that Plaintiffs are perpetrating fraudulent or unlawful activities.
- f. **“RK Associates Allegedly Violates The Lease Agreement” [June 2, 2011]:** Among other defamatory comments, Chevaldina states: “If you do not want to lose your business, your investment, your ideas think twice, talk to their tenants, and do your research to learn what can happen to you after signing the lease with the landlord like RK Associates.” Again, Chevaldina is representing that Plaintiffs are perpetrating fraudulent or unlawful activities.
- g. **“Raanan Katz, RK Associates Alleged in Theft of Tenant’s Property” [June 8, 2011]:** For example, Chevaldina states: “Do RK Associates and their boss Raanan Katz believe that all tenants’ property after signing the lease should belong to them? *or they just not afraid of stealing the tenants’ property?* . . . Raanan Katz enjoys his ‘business’ and freedom.” This blog clearly represents that Plaintiffs are involved in criminal activity.

- h. **“Public Awareness of RK Associates and Raanan Katz Activities” [June 13, 2011]:** In this blog, Chevaldina represents that his blogs are “accurate” (i.e. not opinions) and that Plaintiffs are involved in organized crime: “This blog takes leading positions in google, msn, yahoo, bing. Use key words: RK Associates Lease, RK Associates Scheme, RK Associates Fraud, RK Associates Miami, RK Associates Sunny Isles Beach, RK Associates Raanan Katz, Raanan Katz Criminal, Raanan Katz Fraud, Raanan Katz RK Associates, Dan Katz RK Associates, Dan Katz Fraud and etc. *Read the most accurate information on Raanan Katz group RK Associates here. The group is named after Raanan Katz (RK), the boss of the family.* The group’s operations extend from Massachusetts to Florida.”
- i. **“RK Associates False Affidavit of Damages” [June 13, 2011]:** In addition to the defamatory title, Chevaldina, states among other defamatory comments: *“RK Associates group led by their boss Raanan Katz had an affidavit of fake damages made and notarized just to show the court that creating an affidavit of false damages is not very hard for them.”*
- j. **“Raanan Katz Filled [sic] Another Frivolous Lawsuit in Miami” [June 18, 2011]:** Referring to the case *sub judice*, Chevaldina states: “[Plaintiffs] started another frivolous litigations against unknown person for libel/slander on 6/9/2011 in Miami-Dade Court. . . . Hopefully, the case discovery will reveal more of RK Associates ‘business’ activities and JURY will send Raanan Katz and Daniel Katz to jail.”
- k. **“How RK Associates Ripped Off the Single Mother of Special Needs Child” [July 24, 2011]:** Again, even the title of this blog is defamatory *per se*. In addition, Chevaldina states: “The little she knew *was what kind of business RK Associates, Raanan Katz and Daniel Katz were actually involved in. . . . Raanan Katz called himself ‘dedicated Jew.’ Raanan Katz and Daniel Katz are the most immoral human-being[s] in the world. They are dare enough to take bread from little Jewish special needs child to support their luxury lifestyle. Raanan Katz and Daniel Katz represented by elite law firm Kluger, Kaplan, Silverman, Katzen & Levine, P.L. What are moral values of these Elite American Jewish attorneys?*”
- l. **“Raanan Katz Gets Jackpot Through Default Part III” [October 17, 2011]:** Chevaldina, among other comments, states: “Why Raanan Katz’s tenants default under RK Associates Lease one after another?”
- m. **“Raanan Katz RK Associates’ Automatic Lease Renewal Saga Continues” [October 18, 2011]:** Chevaldina makes false statements about one of Raanan Katz’s companies and says: “Can the Public see the light at the end of the tunnel???”

- n. **“Raanan Katz: Why Kill The Goose That Lays The Golden Eggs?” [October 23, 2011]:** Chevaldina makes false statements about one of Raanan Katz’s companies and states, among other defamatory comments, “Why kill the goose that lays the golden eggs? Instead, Raanan Katz’s company filled [sic] legal actions against the Tenant #2 (see prior post), claiming unpaid rent and operating expenses for 2011 in the amount of \$111,932.76, and re-leased the space to the Tenant #3.”
- o. **“Raanan Katz: Is He Following the Footsteps of His Father Raanan Katz?” [October 23, 2011]:** Chevaldina falsely represents in this blog that “Raanan Katz, the father of Daniel Katz and the owner of RK Associates (RK Centers), has a *criminal conviction*” and goes on to state “Do you think the rich and famous would learn from the lessons. . . . Daniel Katz failed to submit amended affidavit of damages, instead on March 18, 2009 his company filled [sic] Affidavit of Proof confirming the damages per complaint and Daniel Katz’s affidavit. . . . This helped Daniel Katz’s company to obtain final judgment against former tenant for the amount of 5- year rent in advance, while receiving the rent from the new tenant.”
- p. **“Raanan Katz, Daniel Katz Filed Frivolous Lawsuit to Zip The Blogger’s Mouth Up?” [October 25, 2011]:** Chevaldina, among other comments, states in this defamatory blog that “[t]he Katz lawsuit for defamation *per se* and libel *continues their long history of being wrong on the law and wrong on the public.*”
- q. **“Raanan Katz, Daniel Katz, Search Engines, Key Words” [October 27, 2011]:** Chevaldina, for example, states: “It’s not a *secret* for anyone that the lawsuit is *very stressful*. *But I could not stop laughing reading Katz’s attorneys Alan Kluger and Todd Levine’s absurd arguments:* ‘Perhaps worse is Chevaldina’s alteration of the June 31, 2011 blog entry, entitled Public Awareness of RK Associates and Raanan Katz Activities (the June 31, 2011 Blog Entry). When Plaintiffs filed their Complaint, the June 31, 2011 Blog Entry stated –[t]his blogspot takes leading positions in google, msn, yahoo, bing. The June 31, 2011 Blog Entry listed eleven (11) key words for the public to research, including, but not limited to, RK Associates Fraud, Raanan Katz Criminal, Raanan Katz Fraud, and Dan Katz Fraud However, the June 31, 2011 Blog Entry contained in Chevaldina’s Exhibit B, does not include any of the eleven (11) key words or Chevaldina’s statement that [t]his blogspot takes leading positions on google, msn, yahoo, bing, (*which evidenced that Chevaldina had purchased the key words so that the public would be directed to the Blogs if they tried to search for any of the Plaintiffs*). . . . Chevaldina knows (and intended) that his statements are presented as facts, and he altered the entry in a thinly veiled effort to escape liability for his misconduct.’ . . . So what happened to the ‘key words’ then, were they re-sold or worn-out? Who sold the *allegedly* purchased ‘key words’ that

resulted in alleged misconduct? Hopefully at least Katz's attorneys understand what they are talking about."

- r. **"Raanan Katz, RK Associates Involved in Selling Tenants Business?"** [October 28, 2011]: Among other defamatory statements on this blog, Chevaldina states: "Raanan Katz's company has been known for taking over tenants' property by simply changing the locks (Raanan Katz' RK Associates Alleged in Theft of Tenant's Property see prior post)."
- s. **"Raanan Katz: Takes \$100K Property – Gets Five Bucks in Exchange?"** [November 1, 2011]: Chevaldina states, among other false comments, that "[t]he topic of the day is how to become rich and successful with \$5 satisfied judgment? *We need to stay united, and believe that justice will prevail, especially in this particular case when Raanan Katz and his son Daniel Katz took away money from the family with special needs child. . . . This blog will continue to publish this case updates in spite of Raanan Katz's effort to take away freedom of speech with the power of big bucks.*"
- t. **"Raanan Katz: Consider My Letter As A Lease Agreement"** [November 11, 2011]: Chevaldina's defamatory statements in this blog includes, for example, "[m]any of us naively believe that in order to rent space the landlord would need to go through the certain steps such as showing the space, negotiating the lease, and finally, signing an agreement. . . . *However, it is not always the case, especially, when you deal with Raanan Katz and his companies. . . . For how long [will] Raanan Katz [] use the court system, court resources and taxpayers' money for his enrichment attempts?*"
- u. **"Raanan Katz: Contempt or Unjust Enrichment"** [November 13, 2011]: In addition to the defamatory title, Chevaldina includes, among other statements in this blog, that "[i]n Florida, Raanan Katz's company RK Associates used a 'good' catch in the lease agreement, in their attempt to 'legally' *rip-off the doctor* (former tenant) by automatically renewing expired lease without option to renew." Chevaldina goes on to state that "*Raanan Katz conceals this court order from the court and tenants when his companies use this 'gotcha' clause in the court. . . . Do you believe that the court order would make Raanan Katz remove his 'gotcha' clause from his lease? Who cares about public and public policy when Raanan Katz is so desperate for former tenant's money? Why remove this 'gotcha' clause if it's so.....good? . . . Is it a habit of the big bag of money, Raanan Katz, to disrespect the authority and power of the Court in his hunger for people's money?*"
- v. **"Raanan Katz: Who Is Next?"** [November 14, 2011]: Cartoon of Raanan Katz stating "I need to make a lease... dammit! I don't know how to write... Danny..." and in response, a cartoon of Daniel Katz states

“Who’s Next Daddy?” Again, this blog falsely indicates that Plaintiffs are engaged in unlawful wrongdoing.

- w. **“Raanan Katz Court Records Data” [November 27, 2011]:** “As some of you requested Raanan Katz and RK Associates’ court documents in pdf format, the blog will be updated with the links to *downloadable* pdf court records. Please feel free to use these documents to *defend yourself* against RK Associates, Raanan Katz, or/and submit the documents to government officials.” This blog falsely represents that Plaintiffs will wrongly pursue innocent third parties who must “defend themselves.”
- x. **“Raanan Katz v. Freedom of Speech” [November 28, 2011]:** Cartoon of Raanan Katz with caption: “For those who play chess the game is turning castling.” and includes a depiction of Raanan Katz with a big nose stating “I’ll Show You Freedom of Speech” while holding a wad of \$100 bills. *This is an anti-Semitic cartoon similar in look and theme to those published during the holocaust.*
- y. **“Raanan Katz: Welcome to Jury Trial” [December 3, 2011]:** Chevaldina states, among other defamatory comments in this blog, “in the Jewish family with special needs child case,” there are “blockbuster Counts against Raanan Katz’s company 18100 Collins Ave Shopping Center LTD.”
- z. **“Miami-Dade Detectives Investigated Condo Maintenance Fraud” [December 10, 2011]:** Chevaldina states, “Ramon Perez, 57 was charged with one count of grand theft after an investigation found he stole \$50,000 of board association fees at the Villa Grande Condominium. . . . Facing a rising number of complaints from condo dwellers statewide who accuse their board associations of stealing money, [State Rep. Julio] Robaina decided to create a task force to crackdown on such crimes. . . . *Raanan Katz has received much higher amounts towards common area maintenance from tenants without no evidence of proof. Are business owners, RK Associates tenants, entitled to the same protection as condo owners? Or rich and famous can do whatever they want?*” Thus, here Chevaldina is taking a story about a person who is not related to or affiliated with Plaintiffs, and stating that such person’s wrongdoing should be imputed to Raanan Katz.
- aa. **“Raanan Katz Targets Fundamentals of American Democracy With Libel Lawsuit” [December 13, 2011]:** In this blog post, Chevaldina continues to defame Plaintiffs regarding this lawsuit, including statements such as: “In Miami, Florida, Raanan Katz filed lawsuit to censor and harass internet critics into silence. Raanan Katz, *convicted criminal* (see court records here) *with racial discrimination background* (see records here), not only trying to suppress legitimate free speech with a power of expensive legal battle, *but most dangerously, trying to intimidate the*

fundamental democratic principles of American society” and “Raanan Katz, keep your hands off the US fundamental principle of free speech and our democracy.” Again, Chevaldina ignores his own misconduct, attacks Plaintiffs in their trade or profession and charges them with criminal and unlawful activity.

See Composite Exhibit “A.” (emphasis added).

27. Because Chevaldina’s defamatory postings are legion and ongoing, it is not practicable or even possible to refer to each and every defamatory blog herein, but the blogs contained on the websites described above are incorporated herein by reference.

28. Within the defamatory blog postings, Chevaldina has also published, and continues to post, cartoons and depictions which tend to expose Plaintiffs to hatred, contempt, ridicule or obloquy.

29. Accordingly, on June 9, 2011, Plaintiffs filed their original Complaint against Chevaldina in the Miami-Dade County Circuit Court.

30. From June 9, 2011 through approximately July 22, 2011, Chevaldina represented herself *pro se*, but anonymously. She did not provide the Court with her actual name, address, or contact information.

31. On July 22, 2011, Kain & Associates and Kain (collectively, the “**Kain Firm**”) entered its appearance on behalf of Chevaldina. Upon the Kain Firm’s appearance, the undersigned asked Kain to “identify who [Chevaldina] is” and whether she is “willing to voluntarily close the blog.” On July 25, 2011, the undersigned again instructed Kain to have Chevaldina “immediately stop posting, and immediately remove any and all trace of, all defamatory remarks and articles they have posted on the internet and elsewhere, including but not limited to those articles that appear on the website located at <http://www.rkassocaitesusa.blogspot.com/>. . . .” The undersigned sent a similar demand to Kain on October 14, 2011.

32. Thereafter, Randazza and Randazza Legal Group (collectively, the “**Randazza Firm**”) became the Kain Firm’s co-counsel in representing Chevaldina.

33. Rather than merely providing legal counsel to Chevaldina, the Kain Firm and the Randazza Firm (collectively, the “**Firms**”) have actually been providing substantial assistance and encouragement to Chevaldina to perpetuate the tortious misconduct, and are accessories to her unlawful activities both before-the-fact and after-the-fact.

34. With the knowledge that Chevaldina’s defamation and “cyber-bullying” of Plaintiffs amounts to defamation *per se* because her false publications about Plaintiffs have the tendency to injure Plaintiffs in their trade or profession and subject Plaintiffs to hatred, distrust, ridicule, contempt or disgrace, the Firms have assisted Chevaldina in continuing to post defamatory materials while disingenuously arguing that these defamatory postings are protected under the First Amendment to the United States Constitution.

35. Defendants have encouraged and assisted Chevaldina phrase her defamatory postings in an effort to seek protection under the First Amendment and/or to delay the proceedings against Chevaldina to enable her to irreparably harm Plaintiffs.

36. Defendants also know that Chevaldina’s false statements are tortiously interfering with Plaintiffs’ business and contractual relationships by causing existing and prospective tenants and customers to avoid engaging in business with Plaintiffs, yet they continue to assist and encourage her in pursuing her misconduct.

37. Moreover, Defendants know that Chevaldina has repeatedly testified falsely under oath, yet they have done nothing to correct her lies despite their obligations as officers of the court.

38. Finally, Defendants have instructed Chevaldina to plead the fifth amendment to deposition questions concerning whether she was involved in a malicious cyber-attack and viral infestation of the undersigned law firm's website, thus invoking the adverse inference in civil proceedings that Chevaldina was indeed involved in the vicious malware infection. Notwithstanding their knowledge that Chevaldina was involved in, or has information regarding, this unlawful behavior, the Law Firms have enabled and assisted Chevaldina to testify falsely under oath regarding the attack and the consequences and investigation thereof.

39. All conditions precedent to the maintenance of this action have occurred, been performed or have otherwise been waived or excused.

COUNT I—ACTING IN CONCERT

Plaintiffs, R.K./FL MANAGEMENT, INC., R.K. ASSOCIATES VII, INC., 17070 COLLINS AVENUE SHOPPING CENTER, LTD., RAANAN KATZ and DANIEL KATZ, sue Defendants KAIN & ASSOCIATES, ATTORNEYS AT LAW, P.A., ROBERT C. KAIN, JR., MARC J. RANDAZZA, P.A. d/b/a RANDAZZA LEGAL GROUP and MARC J. RANDAZZA, for Acting in Concert pursuant to the Restatement (Second) of Torts § 876, adopt and reallege the allegations contained in paragraphs 1 through 39 above, as if set forth fully herein, and further allege as follows:

40. As stated above, Chevaldina has continued to publish false, libelous and unprivileged statements, depictions and remarks about Plaintiffs and their business and commercial activities.

41. The false statements and depictions are published on several internet blogs and are open to, and intended for, the general public to read. These false statements have the

tendency to injure Plaintiffs in their trade or profession and subject Plaintiffs to hatred, distrust, ridicule, contempt or disgrace and constitute defamation *per se*.

42. Plaintiffs are not public figures. Even so, however, Chevaldina's defamation was committed with actual malice as Chevaldina's statements were false when made and Chevaldina knew that the statements were false at the time they were published, or Chevaldina made the statements with reckless disregard for their truth or falsity, and with reckless disregard for their adverse effect on Plaintiffs' reputation and/or their business.

43. In addition, Chevaldina's defamatory statements are intended to, and actually, are tortiously interfering with Plaintiffs' advantageous business relationships and contracts.

44. The unlawful publications described above are causing Plaintiffs to suffer irreparable harm.

45. Rather than merely providing legal counsel to Chevaldina, the Firms have actually been assisting Chevaldina to perpetuate her tortious misconduct, and are accessories to her unlawful activities both before-the-fact and after-the-fact.

46. Specifically, the Firms have assisted Chevaldina in continuing to post defamatory materials, have frivolously delayed proceedings against Chevaldina to enable her to irreparably harm Plaintiffs and have assisted Chevaldina in offering false testimony under oath without taking any corrective measures.

47. In more recent blogs, Chevaldina has been seeking to wrongfully cause the State Attorney and the Attorney General to commence investigations against Plaintiffs. Defendants have assisted and encouraged Chevaldina in this frivolous pursuit, which would cost Plaintiffs great expense, time and possibly adverse publicity while they defend themselves from Chevaldina's (as assisted by Defendants) meritless accusations.

48. The Restatement (Second) of Torts § 876 provides that a defendant is subject to liability that for harm resulting to a third person from the tortious conduct of another if he:

- (a) does a tortious act in concert with the other or pursuant to a common design with him, or
- (b) knows that the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other so to conduct himself, or
- (c) gives substantial assistance to the other in accomplishing a tortious result and his own conduct, separately considered, constitutes a breach of duty to the third person.

49. Defendants are clearly acting in concert with Chevaldina in violation of the foregoing precepts.

50. Defendants, have acted in pursuance of a common plan or design with Chevaldina to commit a tortious act, actively take part in it, or further it by cooperation or request, or to lend aid or encouragement to Chevaldina, or to ratify or adopt Chevaldina's acts done for their benefit.

51. Consequently, Defendants are equally liable with Chevaldina for her tortious misconduct.

52. Although Plaintiffs are suffering damages as a direct and proximate result of Defendants' misconduct, Plaintiffs' damages are not reasonably susceptible to precise calculation.

WHEREFORE, Plaintiffs, R.K./FL MANAGEMENT, INC., R.K. ASSOCIATES VII, INC., 17070 COLLINS AVENUE SHOPPING CENTER, LTD., RAANAN KATZ and DANIEL KATZ, demand Judgment be entered against Defendants, KAIN & ASSOCIATES, ATTORNEYS AT LAW, P.A., ROBERT C. KAIN, JR., MARC J. RANDAZZA, P.A. d/b/a RANDAZZA LEGAL GROUP and MARC J. RANDAZZA, for compensatory damages, pre-

judgment and post-judgment interest, or in the alternative, for equitable relief to provide redress for the irreparable harm Defendants are causing Plaintiffs to incur, plus court costs, and such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiffs demand trial by jury on all issues so triable.

Respectfully submitted,

**KLUGER, KAPLAN, SILVERMAN,
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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was served via facsimile and U.S. Mail upon: Robert C. Kain, Jr. Esq. and Darren Spielman, Esq., Kain & Associates, Attorney at Law, P.A. 900 Southeast Third Avenue, Suite 205, Ft. Lauderdale, Florida 3316 this _____ day of June, 2012.

ALAN J. KLUGER